

**Amendment No. 100 to SB7001**

**Ketron  
Signature of Sponsor**

**FILED**

Date \_\_\_\_\_

Time \_\_\_\_\_

Clerk \_\_\_\_\_

Comm. Amdt. \_\_\_\_\_

**AMEND Senate Bill No. 7001\***

**House Bill No. 7001**

by adding the following language as a new, appropriately designated section:

SECTION\_\_.

(a) Tennessee Code Annotated, Section 4-3-104, is amended by adding the following language as a new, appropriately designated subsection:

(\_) References to the registry of election finance are deemed references to the commission of ethics and election finance.

(b) Tennessee Code Annotated, Section 4-29-230(44), is amended by deleting the subdivision in its entirety and by substituting instead the following language as a new subdivision (44):

(44) Tennessee commission of ethics and election finance, created by § 2-10-203;

(c) Tennessee Code Annotated, Section 2-7-133, is amended by deleting the language “registry of election finance” and by substituting instead the language “commission of ethics and election finance”.

(d) Tennessee Code Annotated, Section 2-8-113, is amended by deleting the language “registry of election finance” and by substituting instead the language “commission of ethics and election finance”.

(e) Tennessee Code Annotated, Title 2, Chapter 10, is amended by deleting the language “registry of election finance” wherever it may appear and by substituting the language “commission of ethics and election finance” and by deleting the language “registry” wherever it may appear and by substituting instead the language “commission”.

(f) Tennessee Code Annotated, Title 3, Chapter 6, is amended by deleting the language “registry of election finance” wherever it may appear and

by substituting the language “commission of ethics and election finance” and by deleting the language “registry” wherever it may appear and by substituting instead the language “commission”.

(g) Tennessee Code Annotated, Title 8, Chapter 50, Part 5, is amended by deleting the language “registry of election finance” wherever it may appear and by substituting the language “commission of ethics and election finance” and by deleting the language “registry” wherever it may appear and by substituting instead the language “commission”.

(h) References to the registry of election finance appearing in the Tennessee Code Annotated shall be deemed to be references to the commission of ethics and election finance. The code commission is directed to change such references in the Tennessee Code Annotated as supplements are published and volumes are replaced. The code commission is authorized to make grammatical changes in the provisions of the Tennessee Code to effectuate such changes.

AND FURTHER AMEND by deleting the language “registry of election finance” wherever it may appear and by substituting the language “commission of ethics and election finance” and by deleting the language “registry” wherever it may appear and by substituting instead the language “commission” in SECTIONS 1 through 23.

AND FURTHER AMEND by deleting the language “Tennessee ethics commission” wherever it may appear and by substituting instead the language “Tennessee commission of ethics and election finance” and by deleting the language “ethics commission” wherever it may appear and by substituting instead the language “commission” in SECTION 30.

AND FURTHER AMEND by deleting the language “Tennessee ethics commission” wherever it may appear and by substituting instead the language “Tennessee commission of ethics and election finance” and by deleting the language “ethics commission” wherever it may appear and by substituting instead the language “commission” in SECTION 31.

AND FURTHER AMEND by deleting the language “Tennessee ethics commission” wherever it may appear and by substituting instead the language “Tennessee commission of ethics and

election finance” and by deleting the language “ethics commission” wherever it may appear and by substituting instead the language “commission” in SECTION 32.

AND FURTHER AMEND by deleting the language “Tennessee ethics commission” wherever it may appear and by substituting instead the language “Tennessee commission of ethics and election finance” and by deleting the language “ethics commission” wherever it may appear and by substituting instead the language “commission” in SECTION 33.

AND FURTHER AMEND by deleting the language “part” wherever it may appear, except in §3-6-306(d), and by substituting instead the language “chapter” in SECTION 33.

AND FURTHER AMEND by deleting the subsection (f) in § 3-6-306 in SECTION 33.

AND FURTHER AMEND by deleting SECTION 10 in its entirety and by substituting instead the following language as a new SECTION 10:

SECTION 10.

Tennessee Code Annotated, Section 2-10-205(2), is amended by deleting the language “Lobbyist Registration and Disclosure Law” and by substituting instead the language “Governmental Ethics Reform Law”.

AND FURTHER AMEND by deleting SECTION 26 in its entirety.

AND FURTHER AMEND by deleting subsections (c) and (d) in SECTION 27.

AND FURTHER AMEND by deleting the language “Tennessee ethics commission” wherever it may appear and by substituting instead the language “Tennessee commission of ethics and election finance” and by deleting the language “ethics commission” wherever it may appear and by substituting instead the language “commission” SECTION 36.

AND FURTHER AMEND by deleting SECTION 37 in its entirety and by substituting instead the following language as a new SECTION 37:

SECTION 37. Tennessee Code Annotated, Section 8-50-505, is amended by deleting the section in its entirety and by substituting instead the following language as a new § 8-50-505:

§ 8-50-505.

The Tennessee commission of ethics and election finance has the jurisdiction to administer and enforce the provisions of this part concerning disclosure statements of conflicts of interests. This enforcement power includes the full range of powers and penalties and procedures established in title 2, chapter 10.

AND FURTHER AMEND by deleting SECTIONS 34 and 35 in their entirety.

AND FURTHER AMEND by deleting the language "Tennessee ethics commission" wherever it may appear and by substituting instead the language "Tennessee commission of ethics and election finance" and by deleting the language "ethics commission" wherever it may appear and by substituting instead the language "commission" in SECTION 38.

AND FURTHER AMEND by deleting the language "registry of election finance" wherever it may appear and by substituting the language "commission of ethics and election finance" and by deleting the language "registry" wherever it may appear and by substituting instead the language "commission" in SECTION 40.

AND FURTHER AMEND by adding the following language as a new, appropriately designated section:

SECTION\_\_\_. Tennessee Code Annotated, Section 2-10-203(j), is amended by deleting subsection (j) in its entirety and by substituting instead the following language as a new subsection (j):

(j) The provisions of subsection (h) shall be applicable for one (1) year subsequent to the removal, vacancy or termination of the term of office of a member of the commission of ethics and election finance.

AND FURTHER AMEND by adding the following language as a new, appropriately designated section:

SECTION\_\_\_. Tennessee Code Annotated, Section 2-10-204, is amended by inserting the following language immediately following the first sentence of the section:

The executive director shall perform all supervisory and administrative duties required by the provisions of the statutes within the jurisdiction of the commission of ethics and election finance.

AND FURTHER AMEND by deleting the language “district attorney general” and by substituting instead the language “law enforcement agency” in subdivision (8) of designated section 2-10-207 in SECTION 12.

AND FURTHER AMEND by adding the following language as a new, appropriately designated section:

SECTION\_\_.

(a) Tennessee Code Annotated, Section 2-10-108(c), is amended by deleting the language “the district attorney general who represents the judicial district in which the voter resides” and by substituting instead the language “the district attorney general of Davidson County”.

(b) Tennessee Code Annotated, Section 2-10-109, is amended by deleting subsection (b) in its entirety and by substituting instead the following language as a new subsection (b):

(b) It is the duty of district attorney general of Davidson County to:

(1) Investigate any sworn complaint filed in accordance with § 2-10-108(c); and

(2) Seek injunctions from Davidson County chancery court to enforce the provisions of this part against any campaign committee or candidate about whom a sworn complaint has been filed, if such action is justified.

(c) Tennessee Code Annotated, Section 2-10-120, is amended by deleting the language “of Davidson County” immediately after the language “district attorney general”.

AND FURTHER AMEND by deleting SECTION 24 in its entirety and by substituting instead the following language as a new SECTION 24:

SECTION 24. Tennessee Code Annotated, Title 3, Chapter 6, is amended by deleting Part 1 in its entirety and by substituting instead the following language as a new, appropriately designated part:

§ 3-6-101.

This chapter shall be known and may be cited as the "Governmental Ethics Reform Act of 2006."

§ 3-6-102.

It is the intent of the general assembly that the integrity of the processes of government be secured and protected from abuse. The general assembly recognizes that a public office is a public trust and that the citizens of Tennessee are entitled to a responsive, accountable, and incorruptible government. This chapter is established to sustain the public's confidence in government by increasing the integrity and transparency of state and local government through regulation of lobbying activities, disclosure requirements, and ethical conduct.

§ 3-6-103.

(a) The Tennessee commission of ethics and election finance is vested with jurisdiction to administer and enforce the provisions of this chapter.

(b) In addition to the jurisdiction vested in subsection (a), with respect to members of the general assembly, the commission also has jurisdiction to investigate, in accordance with § 3-6-203, complaints alleging acts by a member of the general assembly that constitute misuse of office for personal financial gain; provided, if a member of the general assembly makes the declaration required by § 2-10-127(d), then such member shall not be deemed to have misused his or her office for personal financial gain based solely upon the member's relationship to a sibling, spouse or child who lobbied for or against the legislative action.

(c) The ethics committee in each house is authorized to refer to the commission for investigation in accordance with § 3-6-203 any complaint it receives alleging a violation of the provisions of this chapter or misuse of legislative office for personal financial gain.

(d) The governor is authorized to refer to the registry for investigation in accordance with § 3-6-203 any allegation the governor receives concerning a violation by an officer or staff member of the executive branch subject to the jurisdiction of the commission pursuant to the provisions of this chapter, an executive order related to ethics, or misuse of office for personal financial gain.

(e) The commission is vested with jurisdiction over any violation of the laws administered and enforced by the commission or any alleged violation referred to the commission pursuant to this section that occurs within five (5) years prior to the filing of a complaint alleging such violation.

§ 3-6-104.

(a) The duties of the Tennessee commission of ethics and election finance include the following:

(1) Recommend guiding principles of ethical conduct for consideration and adoption by the legislative or executive branches. The commission shall publish such principles on the commission's web site. Guiding principles of ethical conduct may be recommended for each of the following classifications:

(A) Members of the general assembly;

(B) The governor, secretary of state, treasurer, comptroller of the treasury, members of the governor's cabinet, and cabinet level staff within the governor's office;

(C) Candidates or appointees to the above offices and positions; and

(D) Employers of lobbyists and lobbyists;

(2) Develop prescribed forms for complaints, registrations, statements and other documents that are required to be filed under this chapter with the objective of making the documents as simple and

understandable as possible for both the person filing the document and the average citizen of the state of Tennessee;

(3) Develop filing, coding and cross-indexing systems;

(4) Make as many documents filed available for viewing on the Internet as is reasonable based on the commission's financial resources and make each document filed available for public inspection and copying during regular office hours at the expense of any person requesting copies of the same; provided, that this subsection does not apply to those documents required to be confidential pursuant to § 3-6-202 or § 3-6-308;

(5) Review all filed documents to ensure compliance with the laws administered and enforced by the commission. Statements filed with the commission for more than two (2) years shall be deemed to be sufficient absent a showing of fraud or the existence of an ongoing investigation related to such statement;

(6) Accept and file any information voluntarily supplied that exceeds the requirements of this chapter;

(7) Prepare and publish on the commission's web site reports as are deemed to be appropriate and in the public interest by the commission, including quarterly reports listing all registered employers of lobbyists and lobbyists, as defined in part 3 of this chapter, alphabetically;

(8) Prepare and publish manuals and guides to facilitate compliance with, and enforcement of, the laws administered and enforced by the commission;

(9) Administer ethics training as provided in this part;

(10) Provide an annual report to the governor and the general assembly by January 15 concerning the administration and enforcement of laws under the jurisdiction of the commission, including the necessity,



or lack of necessity, for any additional action or additional legislation that will serve to further the purposes of this chapter;

(11) Investigate any alleged violation upon sworn complaint or upon its own motion as provided in § 3-6-201; and

(12) Preserve all filed reports or statements for at least five (5) years from the date of receipt, or longer when there is a pending investigation by the commission or any law enforcement agency or when there is an ongoing administrative or judicial proceeding related to such information.

(b) It is the duty of the attorney general and reporter to render opinions and give counsel to the commission upon the request of the executive director or the registry.

§ 3-6-105.

The Tennessee commission of ethics and election finance possesses power to:

(1) Promulgate such rules and regulations pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, as are necessary to implement the provisions of this chapter;

(2) Subpoena witnesses, compel their attendance and testimony, conduct audits, administer oaths, take evidence and require by subpoena duces tecum the production of books, papers, records or other evidence needed for the performance of the commission's duties or exercise of its powers, including its duties and powers of investigation;

(3) Issue written advisory opinions to any person subject to the jurisdiction of the commission pursuant to this chapter. With respect to an issue addressed in an advisory opinion, any person who conforms such person's behavior to the requirements of the advisory opinion may rely upon such opinion without threat of sanction;

- (4) Request legal and investigative assistance from the office of the attorney general and reporter;
- (5) Conduct a hearing to determine if an actual violation has occurred;
- (6) Issue an appropriate order following such a determination;
- (7) Assess and collect late filing fees in amounts provided by statute;
- (8) Assess and collect a civil penalty as provided in this chapter, provided, that the commission shall only have the power to assess a civil penalty after notice and opportunity for hearing; and
- (9) Seek injunctive relief in the chancery court of Davidson County to prevent continuing violations of this chapter.

§ 3-6-106.

Where the results of an investigation indicate a criminal violation has occurred, the commission shall refer the matter to the appropriate law enforcement agency.

§ 3-6-107.

The Tennessee commission of ethics and election finance has the authority to petition the chancery court through the attorney general and reporter or its own legal counsel for enforcement of any order it has issued. The court's order of enforcement has the same force and effect as a civil judgment.

§ 3-6-108.

(a) The commission of ethics and election finance shall provide an annual ethics course concerning compliance with the laws administered and enforced by the commission for supervisory personnel in the executive branch of state government. The commission shall notify administrative departments and divisions in advance of the time and location of the course. The course may be offered on multiple occasions in locations that will make attendance by personnel

in the three (3) grand divisions reasonably convenient. The ethics course shall include, but not be limited to, discussion of relevant laws, administrative regulations, advisory opinions, current ethical issues and situations, and development of problem-solving skills.

(b) Administrative departments and divisions shall annually select appropriate supervisory personnel and shall communicate the name, position, and contact information of each individual required to attend the annual course to the commission prior to February 1.

§ 3-6-109.

(a) The Tennessee commission of ethics and election finance shall provide an annual orientation ethics course concerning compliance with the laws administered and enforced by the commission for members of the general assembly who have not yet taken the orientation ethics course and shall offer an annual current issues course for members of the general assembly who have taken the orientation course. Such courses shall be offered on a date or dates when the general assembly is in session. The commission shall notify such members in advance of the time and location of the courses.

(1) The orientation ethics course shall include, but not be limited to, laws administered and enforced by the commission, administrative regulations, relevant internal policies, specific technical and legal requirements, summaries of advisory opinions, underlying purposes and principles of ethics laws, examples of practical application of ethics laws, and a question-and-answer participatory segment regarding common problems and situations.

(2) The current issues course shall include, but not be limited to, discussion of changes in relevant laws, administrative regulations, new advisory opinions, current ethical issues and situations, and development of problem-solving skills.

(b) Members of the general assembly shall attend the courses provided by the commission pursuant to subsection (a). However, a member may petition the commission to approve an ethics course other than a course offered by the commission to fulfill the current issues course requirement.

§ 3-6-110.

(a) The Tennessee commission of ethics and election finance shall provide an annual ethics course on a date or dates when the general assembly is not in session for lobbyists and employers of lobbyists. Training shall include, but not be limited to, laws administered and enforced by the commission, administrative regulations, relevant internal policies, specific technical and legal requirements, and summaries of advisory opinions. The commission shall impose a fee for attending the ethics course that will enable participation in the course to be funded from the fee.

(b) Each lobbyist shall attend one (1) ethics course annually. A lobbyist may petition the commission to approve an ethics course other than a course offered by the commission to fulfill the ethics course requirement.

SECTION 25. Tennessee Code Annotated, Title 3, Chapter 6, is amended by adding the following language as a new, appropriately designated part:

§ 3-6-201.

(a)

(1) Any citizen of Tennessee may file a sworn complaint executed on a form prescribed by the Tennessee commission of ethics and election finance alleging a violation of this chapter;

(2) No political party chairman, state or county executive director of a political party, or employee or agent of a political party acting in his or her official capacity may file a complaint with the commission for a violation of laws or rules within the jurisdiction of the commission pursuant to this chapter. Nothing in this section prohibits a private citizen, acting in

such private capacity, from filing a sworn complaint with the commission under this section.

(b) A complaint filed under this section must set forth in simple, concise, and direct statements:

(1) The name of the complainant;

(2) The street or mailing address of the complainant;

(3) The name of each alleged violator;

(4) The position or title of each alleged violator;

(5) A short and plain statement of the nature of the violation and the law or rule upon which the commission's jurisdiction over the violation depends;

(6) A statement of the facts constituting the alleged violation and the dates on which, or period of time in which, the alleged violation occurred; and

(7) All documents or other material available to the complainant that are relevant to the allegation; a list of all documents or other material within the knowledge of the complainant and available to the complainant that are relevant to the allegation but that are not in the possession of the complainant, including the location of the documents, if known; and a list of all documents or other material within the knowledge of the complainant that are unavailable to the complainant and that are relevant to the complaint, including the location of the documents, if known.

(c) The complaint must be accompanied by an affidavit stating that the information contained in the complaint is either correct or that the complainant has good reason to believe and does believe that the violation occurred. If the complaint is based on information and belief, the complaint shall state the source and basis of the information and belief. The complainant may swear to the facts by oath before a notary public.

(d) The commission may initiate a complaint upon an affirmative majority vote.

(e)

(1) Any complaint that is filed pursuant to this chapter against a candidate in any election, as defined in § 2-10-102, during the period from thirty (30) days immediately prior to such election through election day shall be considered filed but not verified by the commission. The registry shall take no action relative to the complaint during such thirty (30) day period.

(2) During such thirty (30) day period, the registry shall stay any proceedings with regard to an ethics complaint filed against a candidate more than thirty (30) days prior to voting for such election; provided that, the candidate may waive such postponement in writing.

(3) For purposes of this subsection, any provisions of this chapter setting time periods for initiating a complaint or for performing any other action are considered tolled until after the election at which the candidate stands for elective office.

(f) Within five (5) days after the filing of a complaint, the commission shall cause a copy of the complaint to be transmitted by return receipt requested mail to the person alleged to have committed the violation.

§ 3-6-202.

(a) The members and staff of the Tennessee commission of ethics and election finance shall preserve the confidentiality of all commission proceedings, including records relating to a preliminary investigation pursuant to this chapter. Such records shall be exempt from the Tennessee Public Records Act, compiled in title 10, chapter 7 and shall be confidential either until the alleged violator requests in writing that such investigation and associated records and meetings be made public

or until the commission determines that probable cause exists to believe that a violation has occurred; provided that all records and proceedings of the commission related to a preliminary investigation that results in a finding of no probable cause shall become public record sixty (60) days after:

(1) The date the report of the commission's finding is issued, if the complainant does not request a probable cause hearing; or

(2) The date the commission issues its finding of no probable cause following a hearing requested by the complainant.

A member of the commission or a member of the commission staff may acknowledge receipt of a complaint or may disclose information to the extent necessary to successfully pursue an investigation. In no event shall such information against a candidate in any election, as defined in § 2-10-102, be disclosed during the period from thirty (30) days immediately preceding the commencement of voting for such election through election day unless a candidate requests in writing the disclosure of such information.

(b) A member of the commission or member of the commission staff who knowingly discloses such information in violation of this section commits a Class C misdemeanor. A violation of this section also subjects such person to the civil penalties imposed by § 3-6-205(a)(2). Violation of this section by a member of the commission shall be a ground for removal from office.

§ 3-6-203.

(a) The commission shall initiate a preliminary investigation of each sworn complaint that complies with § 3-6-201. If the commission determines that the sworn complaint does not comply with § 3-6-201, then the commission shall dismiss the complaint and notify the complainant. In the notification sent to the

complainant, the commission shall state with particularity why the complaint does not comply with § 3-6-201. If the complaint alleges a violation of law outside of the scope of this chapter, but within the jurisdiction of the commission, the complaint shall be investigated pursuant to the procedures in title 2, chapter 10.

(b) The commission shall refer a factually and legally sufficient complaint to the office of the attorney general and reporter who shall conduct a preliminary investigation. The commission shall make a probable cause determination after the office of the attorney general and reporter completes its investigation and reports its findings to the commission. Both the alleged violator and the complainant shall be entitled, upon request, to present evidence before the commission prior to the commission's probable cause determination. The commission shall have notice that evidence will be presented to the commission personally served upon, or sent by return receipt requested mail, to the alleged violator and the complainant. The commission has discretion to determine the appropriate procedure for the presenting of such evidence.

(1) If the commission determines that no probable cause exists to believe a violation of any law or rule administered and enforced by the commission occurred, then the registry shall dismiss the complaint by issuing a report to the complainant and the alleged violator, stating with particularity its reasons for dismissal of the complaint. A complainant may request a hearing upon a determination of no probable cause. If after such hearing the commission determines that there is no probable cause, the commission may order the complainant to reimburse the alleged violator for any reasonable costs and reasonable attorney fees the alleged violator has incurred.

(2) If the commission determines that probable cause exists to believe a violation of any law or rule administered and enforced by the registry occurred, the commission shall conduct a public hearing and, if



the alleged violator is a member of the general assembly, shall notify the ethics committee of the appropriate house of such probable cause determination. Both the alleged violator and the complainant shall receive, by personal service or return receipt requested mail, notice of the time, date, and location of such hearing.

§ 3-6-204.

(a) The Tennessee commission of ethics and election finance, on its own motion or at the request of the alleged violator, may issue subpoenas in accordance with the Tennessee Rules of Civil Procedure, except that service may be by certified mail in addition to means of service provided by the Tennessee Rules of Civil Procedure. Witnesses under subpoena shall be entitled to the same fees as are now or may hereafter be provided by law or by action of the commission. The party requesting the subpoenas shall bear the cost of paying the fees to the witnesses subpoenaed.

(b) A person who is aggrieved by a final disposition of the commission shall be entitled to judicial review.

(1) Proceedings for review shall be instituted by filing a petition for review in the chancery court of Davidson County, unless another court is specified by statute. Such petition shall be filed within sixty (60) days after the entry of the commission's final disposition thereon. Copies of the petition shall be served upon the commission, the complainant and all parties of record, including the attorney general and reporter, in accordance with the provisions of the Tennessee Rules of Civil Procedure pertaining to service of process.

(2) The provision of § 4-5-322 relating to judicial review of agency decisions shall apply to a petition of review filed pursuant to this section.

§ 3-6-205.

Notwithstanding the provisions of § 3-6-203, if the commission determines that probable cause exists to believe that a member of the general assembly has committed an act constituting misuse of office for personal financial gain, then, except as otherwise provided in § 3-6-306(a)(3), no civil penalty shall be imposed and the commission shall instead report its determination and findings to the ethics committee of the appropriate house of the general assembly.

§ 3-6-206.

(a) If the registry determines that a person:

(1) Filed a complaint or provided information which resulted in an investigation knowing that the material statements in the complaint or the information provided were not true;

(2) Filed an unsubstantiated complaint in reckless disregard of the truth or falsity of the statements contained in the complaint; or

(3) Filed one (1) or more unsubstantiated complaints which constituted abuse of process,

then the complainant is subject to a civil penalty not to exceed ten thousand dollars (\$10,000) and may be liable for any reasonable costs and reasonable attorney fees the alleged violator has incurred. The commission may also decline to consider any further complaints brought by such complainant. A person who violates this section commits a Class B misdemeanor.

(b) The sanctions authorized by subsection (a) are not exclusive and do not preclude any other remedies or rights of action the alleged violator may have against the complainant or informant under the law; provided, that any person who in good faith files a verified complaint or any person, official, or agency who gives credible information resulting in a formal complaint filed by the commission is immune from any civil liability that otherwise might result by reason of such actions.

§ 3-6-207.

A complaint may be filed with the attorney general and reporter against a member of the commission for neglect of duty or misconduct in office including any violation of this chapter pursuant to title 8, chapter 47.

AND FURTHER AMEND by adding the following language as a new, appropriately designated section:

SECTION\_\_\_. It is the intent of the general assembly that the executive director of the Tennessee commission of ethics and election finance, currently the executive director of the registry of election finance, shall perform the new supervisory and administrative duties required of the executive director by this act.